

EXHIBIT 5

DEPOSITION OF SHEILA BURROUGHS

PAGE 1 SHEET 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CIVIL ACTION NO. 04-11522-WGY

STEVEN R. KINCAID,

PLAINTIFF,

VS.

BANK OF AMERICA
CORPORATION,

DEFENDANT.

DEPOSITION

OF

SHEILA K. BURROUGHS

AT CHARLOTTE, NORTH CAROLINA

JUNE 1, 2005

REPORTER: IRA ANDERSON
NOTARY PUBLIC

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A P P E A R I N G

FOR THE PLAINTIFF: Mr. David J. Fine
LAW OFFICES OF DAVID J. FINE
Three Center Plaza, Suite 400
Boston, Massachusetts 02108-2003

FOR THE DEFENDANT: Mr. Richard T. Kane
McGUIRE WOODS, L.L.P.
Suite 2800
Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina 28202

IN ATTENDANCE: Mr. Steven R. Kincaid

I N D E X

Examination by Mr. Fine

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E X H I B I T S

PLAINTIFF'S:

No. 1	Copy of the Affidavit of Sheila K. Burroughs	12
No. 2	Copy of Page from Mr. Kincaid's Review	53
No. 3	Copy of Defendant's Responses to Plaintiff's First Set of Interrogatories to Defendant	101

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1 This is the deposition of Sheila K. Burroughs,
2 taken in accordance with the Federal Rules of Civil
3 Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Hamilton, Fay, Moon, Stephen,
6 Steele & Martin, P.L.L.C., 2020 Charlotte Plaza,
7 201 South College Street, Charlotte, North Carolina,

8 beginning at 1:47 p.m. on June 1, 2005, before Ira
9 Anderson, Notary Public.

10 Sheila K. Burroughs, upon first being duly
12 sworn, testified as follows:

13
14 Examination by Mr. Fine

15 Q. Please state your full name.

16 A. Sheila Burroughs.

17 Q. Where do you reside?

18 A. Charlotte, North Carolina.

19 Q. How are you employed?

20 A. At Bank of America.

21 Q. In what capacity?

22 A. I'm currently a customer experience
23 relationship manager.

24 Q. Do you have any other job titles?

25 A. Yes, senior vice president.

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1 Q. When were you first employed by the bank?

2 A. 1989.

3 Q. In what capacity?

4 A. I was a marketing research analyst.

5 Q. How long were you employed in that capacity?

6 A. I think about two years.

7 Q. And how did your employment change at that
8 point?

9 A. After that I was asked to join the branch
10 development group.

11 Q. The branch development group?

12 A. Uh-huh (yes).

13 Q. What was your job title?

14 A. I don't remember. Branch development analyst,
15 probably.

16 Q. How long were you in the branch development
17 group?

18 A. A couple years.

19 Q. Okay. Then where did you go?

20 A. After branch development I went to. I was a
21 quality consultant in the services company.

22 Q. A quality consultant to what?

23 A. In the services company.

24 Q. How long did you do that?

25 A. A couple years.

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- 1 year conversation, no.
 2 Q. This is the end of --
 3 A. End-of-year conversation.
 4 Q. Yes, okay. Okay. What is the first positive
 5 feedback that you remember ever giving to
 6 Mr. Kincaid?
 7 A. I'm not sure. I know he did a nice job
 8 managing projects early on.
 9 Q. Okay. What is the earliest positive feedback
 10 that you remember?
 11 A. I remember giving him positive feedback
 12 regarding a White paper that he wrote on
 13 margin of error.
 14 Q. And when did he write this White paper on
 15 margin of error?
 16 A. I don't recall specifically, probably in the
 17 fall of 2002.
 18 Q. Okay. And was this positive feedback that you
 19 gave him with regard to the White paper, how
 20 did you communicate that to him?
 21 A. Verbally.
 22 Q. Was anybody else present?
 23 A. I don't remember specifically. Very likely.
 24 Q. What did you say to him?
 25 A. I don't recall the specific words.

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- 1 Q. What did you say in substance?
 2 A. In substance, it was a very useful work and
 3 written in a way that laypeople could
 4 understand.
 5 Q. Who was that White paper circulated to?
 6 A. Various numbers of the customer satisfaction
 7 community within the bank.
 8 Q. Can you name any of them?
 9 A. I believe Val Galovski would have had a copy,
 10 my team would have had a copy.
 11 Q. I'm sorry, Val, what's the last name?
 12 A. Galovski, G-a-l-o-v-s-k-i.
 13 Q. Okay. And what position did that person hold?
 14 A. He was the customer satisfaction and loyalty
 15 executive for the bank.
 16 Q. Okay. Who else?
 17 A. I can -- do you want me to make some guesses?
 18 I can't remember the actual distribution --
 19 MR. KANE: I don't want you to
 20 guess.
 21 Q. All right. Now, did you get positive comments
 22 about Mr. Kincaid's White paper from any of
 23 the people to whom it was circulated?
 24 A. I don't recall.
 25 Q. Did you keep a copy of this White paper?

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- 1 A. I would have at the time.
 2 Q. Would you expect that White paper to be in the
 3 records of the bank today?
 4 A. It might be. It might not be.
 5 Q. Did you ever communicate with Mr. Kincaid by
 6 e-mail?
 7 A. Yes.
 8 Q. Did you ever give Mr. Kincaid any positive or
 9 negative feedback by e-mail?
 10 A. I might have.
 11 Q. Do you remember any occasions on which you
 12 did?
 13 A. No.
 14 Q. What is the earliest documentation of negative
 15 feedback that you gave to Mr. Kincaid?
 16 A. His performance review for the first quarter
 17 2003.
 18 Q. All right. And that's a performance review
 19 that's dated April 16 of 2003?
 20 A. Probably, thereabouts.
 21 Q. Okay. So Mr. Kincaid starts at the bank in
 22 August of 2002, and you're saying that the
 23 first documentation of any negative feedback
 24 that you gave to Mr. Kincaid is this
 25 documentation on April 16 of 2003?

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- 1 A. Formal documentation, yes.
 2 Q. Well, any other documentation?
 3 A. I don't have any, no.
 4 Q. Did you have any at the time?
 5 A. No.
 6 Q. Was there any documentation of any positive
 7 feedback that you had given to Mr. Kincaid at
 8 any time?
 9 A. There is some positive feedback in that review
 10 as well.
 11 Q. Okay. Is there any documentation of positive
 12 feedback to Mr. Kincaid prior to that?
 13 A. No.
 14 Q. So if I understand this correctly, there is no
 15 record whatsoever of any feedback that you
 16 gave to Mr. Kincaid, positive or negative,
 17 prior to April 16 of 2003?
 18 A. Right.
 19 Q. Was it consistent with your practice that
 20 there be no record of positive or negative
 21 feedback to an employee for such a long time
 22 after the employee is hired?
 23 A. When you say your practice, who do you mean?
 24 Q. You, Sheila Burroughs.
 25 A. Me? Yes, unfortunately, it is consistent.

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- 1 ongoing thereafter.
- 2 Q. Okay. And your team was transitioned to
- 3 Mr. Kotopoulos when?
- 4 A. In the December time frame. I can't remember
- 5 when the formal date was.
- 6 Q. Okay. And so how many different employees did
- 7 you discuss with Mr. Kotopoulos at that time?
- 8 A. Including myself, four.
- 9 Q. Okay. And so there was you, Mr. Kincaid, and
- 10 who were the other two?
- 11 A. Susan Haloulos and Allison Hart.
- 12 Q. Susan Haloulos still works for the bank today,
- 13 right?
- 14 A. She does.
- 15 Q. What about Alison Hart?
- 16 A. She still works here too.
- 17 Q. Okay. And so you talked to, started talking
- 18 to Alec Kotopoulos regarding you and
- 19 Mr. Kincaid and Ms. Haloulos and Ms. Hart
- 20 starting in around December of 2002 or January
- 21 of 2003?
- 22 A. Yes.
- 23 Q. Okay. When is the first time that you
- 24 discussed with Mr. Kotopoulos the possibility
- 25 of terminating Mr. Kincaid's employment?

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- 1 A. The possibility?
- 2 Q. Yes.
- 3 A. That would have been in the late March, early
- 4 April time frame is the discussion regarding
- 5 the performance is not really, not meeting
- 6 expectations. And I would have discussed
- 7 prior to the memo that we gave him, as that
- 8 was the first step to ensuring that an
- 9 associate understands that their performance
- 10 must improve.
- 11 Q. Who raised the possibility of terminating
- 12 Mr. Kincaid's employment?
- 13 A. I don't remember for sure. Maybe Alec.
- 14 Q. And what did he say on that subject?
- 15 A. I don't remember his specific words. The
- 16 sentiment was, we need to make sure that he
- 17 meets expectations. And since he's not at
- 18 this point, we need to make sure that he makes
- 19 the relevant, proper improvement in a timely
- 20 way.
- 21 Q. Okay. And when -- and was the discussion of
- 22 the possibility of terminating Mr. Kincaid's
- 23 employment referred to in any e-mails between
- 24 you and Mr. Kotopoulos?
- 25 don't think so.

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- 1 Q. Did you have any discussion with
- 2 Mr. Kotopoulos about who was going to take
- 3 over Mr. Kincaid's responsibilities if he was
- 4 terminated?
- 5 A. No.
- 6 Q. Why not?
- 7 A. Because the plan is to make sure that an
- 8 associate understands where they're not
- 9 meeting expectations and to help them to
- 10 improve.
- 11 Q. Well, wouldn't it have been natural, if you
- 12 were thinking of terminating an employee, to
- 13 talk about how long it would take you to get a
- 14 replacement for that employee?
- 15 A. No. Not at -- we did not at that point, no.
- 16 Q. I understand you're saying that you didn't at
- 17 that point. I'm asking you whether wouldn't
- 18 it have been natural to do that?
- 19 A. I'm not sure I understand the question. We
- 20 didn't.
- 21 Q. Right. I take it you thought that
- 22 Mr. Kincaid's job, what Mr. Kincaid was being
- 23 asked to do in your group was important,
- 24 right?
- 25 A. Yes.

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- 1 Q. You thought that it was integral to the
- 2 operation of your group, right?
- 3 A. It was.
- 4 Q. Okay. Who did you get to replace Mr. Kincaid
- 5 after you terminated him?
- 6 A. Actually, I was not there after that and so I
- 7 do not know.
- 8 Q. Well, you didn't say you didn't know in your
- 9 answers to interrogatories, did you?
- 10 A. I don't believe that anyone was hired to take
- 11 on Steve's work.
- 12 Q. Okay. Now, how is that possible if what
- 13 Mr. Kincaid was doing was so integral to the
- 14 operation of your group? How is it possible
- 15 that you terminated him and then no one was
- 16 hired to take over his responsibilities?
- 17 A. Well, clearly, when there was not a project
- 18 manager to do the work and I was no longer
- 19 there to direct the work, the work at that
- 20 time was not, apparently, deemed a priority by
- 21 the folks that remained.
- 22 Q. When is the first time that you had a
- 23 discussion with anybody about your leaving the
- 24 group that you were in?
- 25 A. don't remember

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- 1 Q. In other words, do you talk to people who -- your
2 employees, your supervisees may have been working
3 with to see how good a job they've been doing?
- 4 A. No. Incentive is based on the performance
5 evaluations and the evaluation -- the ongoing
6 evaluation of performance, and so all of that has
7 already been there. It's not specific to
8 incentive. You don't ask the clients should this
9 person get an incentive.
- 10 Q. So you've got a record of what your evaluations
11 have been, you look at those, you think back on
12 the evaluations that you've given this person,
13 and you decide what to recommend; is that
14 basically it?
- 15 A. Yes, although, I characterized it a little bit
16 differently. It's based on the performance that
17 you're seeing on a regular basis from that
18 person. It's not necessarily looking back on
19 formal evaluations done. It's the total picture
20 of that person's day-to-day and ongoing
21 performance.
- 22 Q. Now, yesterday, I believe you testified that you
23 first discussed the possibility of terminating
24 Mr. Kincaid with Mr. Kotopoulos in the
25 March-April timeframe, March-April 2003

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- 1 timeframe?
- 2 A. I think so, yes.
- 3 Q. When you had that discussion with Mr. Kotopoulos,
4 did you discuss with him a period of time that
5 you were going to afford to Mr. Kincaid to turn
6 his performance around so that he wouldn't be
7 terminated?
- 8 A. We had regular checkpoints. We had not
9 necessarily established a deadline. The approach
10 is typically performance needs to begin to show
11 improvement immediately and to sustain that
12 improvement.
- 13 Q. So when you had this discussion with
14 Mr. Kotopoulos, did you discuss with him how much
15 time Mr. Kincaid was going to be afforded to turn
16 his performance around?
- 17 A. We may have discussed general timelines, but
18 nothing specific that I can recall.
- 19 Q. Okay. Was it common ground between you and
20 Mr. Kotopoulos at that point that Mr. Kincaid's
21 termination was not a fait accompli?
- 22 A. Let me make sure I got the whole question
23 together.
- 24 Q. Let me try it in a somewhat different way.
- 25 A. Sorry.

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- 1 Q. When you and Mr. Kotopoulos were talking about
2 potentially terminating Mr. Kincaid, you both
3 recognized that it was still possible for
4 Mr. Kincaid to turn things around?
- 5 A. Absolutely. That's the preference, yes.
- 6 Q. And I believe you testified yesterday -- well,
7 let me ask it this way. In the first weeks after
8 you had your meeting with Mr. Kincaid and you
9 gave him the counseling memorandum document that
10 we looked at yesterday, in the first weeks after
11 that did you see any positive signs with regard
12 to Mr. Kincaid's performance?
- 13 A. I saw that he was earnest in wanting to address
14 the conversations we'd had. I didn't actually
15 see the change in behavior that I was looking
16 for.
- 17 Q. And did you tell him that you -- did you give him
18 feedback?
- 19 A. Yes, regularly.
- 20 Q. Did there come a time when you became more
21 pessimistic about whether Mr. Kincaid was going
22 to be able to turn his performance around?
- 23 A. Yes, increasingly so, because I was disappointed
24 as it became more and more clear about what the
25 issues were that I did not see a change in

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- 1 behavior and change in performance. So, yes, as
2 time went by, weeks and then months, much more
3 pessimistic that he was able to make the changes
4 that I was asking for.
- 5 Q. Was there some event that occurred which made
6 you -- which persuaded you we've got to terminate
7 him?
- 8 A. Are you asking a timing question or just, okay,
9 something happened and that means we have to
10 terminate him? There wasn't an event that said
11 that event causes me to say that he's just not
12 going to get better. It's the culmination of the
13 lack of improvement seen across those months.
- 14 Q. All right. Can you provide any insight as to why
15 June 13th was the date at which you decided that
16 that was the day he should be terminated?
- 17 A. I had a conversation with Alec and Alec asked,
18 "Do you believe that performance at this point is
19 going to improve," and I indicated that I hadn't
20 seen any evidence that showed that more time was
21 going to be beneficial. And he said, "Is there
22 any reason to continue this?" And I said, "There
23 is not." So he said, "Let's go ahead and do
24 this."
- 25 Q. I'll show you what was marked as Montgomery

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PAGE 1 SHEET 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,

Plaintiff,

vs.

BANK OF AMERICA CORPORATION,

Defendant.

CIVIL ACTION NO.
04-11522-WGYDEPOSITION
OF
SHEILA BURROUGHS
(VOLUME III)At Charlotte, North Carolina
October 19, 2005Reporter: Christine A. Taylor
Notary Public

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A P P E A R I N G

For the Plaintiff: DAVID J. FINE, ESQ.
Law Offices of David J. Fine
Suite 400
Three Center Plaza
Boston, Massachusetts 02108For the Defendant: SLOUGH M. SWEENEY, ESQ.
Edwards & Angell, LLP
101 Federal Street
Boston, Massachusetts 02110

* * * * *

I N D E X

Continued Examination By Mr. Fine

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E X H I B I T S

Burroughs 7 Notes from Personnel Center

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(Exhibit retained by counsel.)

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1 This is the continued deposition of SHEILA
2 BURROUGHS, taken in accordance with the Federal Rules of
3 Civil Procedure in connection with the above case.
4 Pursuant to Notice, this deposition is being taken
5 in the Law Offices of McGuireWoods, LLP, Suite 2900,
6 100 North Tryon Street, Charlotte, North Carolina,
7 beginning at 1:38 p.m. on October 19, 2005, before
8 Christine A. Taylor, Notary Public.

9
10 SHEILA BURROUGHS, upon first being duly
11 sworn, further testified as follows:

CONTINUED EXAMINATION BY MR. FINE

14 Q. Ms. Burroughs, I'm going to show you a document
15 that was marked as Exhibit 1 in Mr. Kotopoulos's
16 deposition the other day. And I want you to
17 first look at the second page of the document.
18 First of all, do you recognize what this document
19 is?
20 A. I've not seen it before, but I recognize what it
21 is.
22 Q. What is it?
23 A. It's a summary of -- this particular one -- of a
24 job offer.
25 Q. Okay. And this particular job offer refers to

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1 you; correct?
2 A. Yes.
3 Q. Okay. And so how do you interpret what is
4 reported here?
5 A. That for requisition number 32661 for Market
6 Information Manager II an offer was extended to
7 me June 13th transferring me from one area within
8 the bank to another, and the status is updated to
9 accepted on June 23rd.
10 Q. Okay. And the position that was offered to you
11 on June 13, 2003, was that a position of Market
12 Information Manager II?
13 I'm just asking, the heading there is offers
14 for requisition, and then Market Information
15 Manager II?
16 A. I'm interpreting this document the same as you
17 are, yes.
18 Q. All right. And what was that position?
19 A. That was a position within customer service and
20 support.
21 Q. Okay. I'd now like you to go to the last page of
22 this document, the third page. Do you recognize
23 what this page is?
24 A. It appears to be a summary of more detail for
25 that requisition.

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- 1 Q. Do you know who Megan Wilson is?
- 2 A. It indicates she's a recruiter.
- 3 Q. Was she a recruiter that you dealt with?
- 4 A. Probably. I don't remember her specifically
- 5 though.
- 6 Q. Do you know who Mark McCue is?
- 7 A. Yes.
- 8 Q. Who is Mark McCue?
- 9 A. He was the hiring manager for that job.
- 10 Q. And then there's an entry dated -- initiated
- 11 May 27, 2003?
- 12 A. Uh-huh.
- 13 Q. What is that?
- 14 A. I'm going to assume from this that that was the
- 15 date that Mark opened the job requisition.
- 16 Q. And what does that mean, "opened the job
- 17 requisition"?
- 18 A. It means that's the date that he would have
- 19 formally opened that position for people to post
- 20 for, I believe, based on what we're looking at
- 21 here.
- 22 Q. Now if you'll turn to the very first page of this
- 23 document. If you look at the last entry, there's
- 24 an entry for 32661, Market Information Manager
- 25 II; do you see that?

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- 1 A. Uh-huh.
- 2 Q. And then there's a status that says deactivated;
- 3 do you see that?
- 4 A. Yes.
- 5 Q. What does that signify to you?
- 6 A. I don't know what it means.
- 7 Q. All right. Might it possibly be that since that
- 8 job was offered to you on June 13, 2003 that they
- 9 then removed it from a general posting of some
- 10 sort?
- 11 A. It might.
- 12 MS. SWEENEY: Objection.
- 13 BY MR. FINE:
- 14 Q. That might -- I think Ms. Sweeney is objecting
- 15 for the record. So do you understand the --
- 16 A. Do you want me to answer it?
- 17 MS. SWEENEY: You can answer it. I'm
- 18 objecting for the record.
- 19 THE WITNESS: Okay. It might.
- 20 BY MR. FINE:
- 21 Q. Now, to summarize, if I might, these documents
- 22 seem to indicate that a job was posted on May 27,
- 23 2003, it was offered to you on June 13, 2003, and
- 24 you accepted it on June 23, 2003; is that fair?
- 25 MS. SWEENEY: Objection.

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- 1 THE WITNESS: Yes.
- 2 BY MR. FINE:
- 3 Q. Okay. When was it that you first considered
- 4 getting another job within the bank?
- 5 A. I'm not sure.
- 6 Q. None of these documents tell you when that was;
- 7 is that right?
- 8 A. None of these documents tell me when I first
- 9 considered getting a new job, no.
- 10 Q. Okay. Before this particular job was offered to
- 11 you, what did you need to do?
- 12 A. I don't understand the question.
- 13 Q. Did you have to let somebody know that you were
- 14 interested in the job?
- 15 A. Okay. I understand that part. So let me --
- 16 going back, before it was offered to me what did
- 17 I do? Can you repeat the question for me?
- 18 Q. It looks like what happened was that this was a
- 19 job that was posted on May 27, 2003, and so
- 20 sometime after it was posted you indicated that
- 21 you were interested in it; is that fair?
- 22 A. Yes.
- 23 Q. And did you go in for an interview with somebody?
- 24 A. Yes.
- 25 Q. Who did you interview with?

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- 1 A. Mark McCue.
- 2 Q. Anyone else?
- 3 A. I don't think so.
- 4 Q. In addition to interviewing for it, did you need
- 5 to submit a written application?
- 6 A. Yes. That's the formal process, to post within
- 7 the system. So it's written to the degree it's
- 8 on-line.
- 9 Q. Was this the first job outside of the customer
- 10 satisfaction unit that you had applied for?
- 11 A. No.
- 12 Q. When was the first job that you had applied for?
- 13 A. I don't remember right off.
- 14 Q. Do you recall whether there was more than one job
- 15 that you had applied for before this one?
- 16 A. I don't remember. There may have been.
- 17 Q. Do you remember approximately when you started
- 18 looking?
- 19 A. No. Maybe in May. I don't remember
- 20 specifically.
- 21 Q. Do you associate it with any kind of event or
- 22 circumstance?
- 23 A. No.
- 24 Q. I'll show you what was marked as Exhibit 2 to
- 25 Mr. Kotopoulos's deposition. And, first of all,

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- 1 you see that these three pages refer to Allison
2 Hart?
- 3 A. Yes.
- 4 Q. I'd like you to turn to the last page, the one
5 that bears the Bates number Bank of America 671.
6 And what does this page signify?
- 7 A. This appears to be an offer made to Allison for a
8 Market Product Manager I Job on June 5th of 2003.
- 9 Q. And when was -- Is there any indication of when
10 her application was accepted?
- 11 A. Well, again the status here says accepted. I'm
12 not familiar with the system enough to know. It
13 appears that me that that means she accepted the
14 position on June 5th, that her acceptance of the
15 position was entered into the system on that day.
16 I don't know when it means she actually accepted.
- 17 Q. Please turn to the previous page. Do you know
18 who Peter Sims is?
- 19 A. According to this he's a recruiter. I don't know
20 him myself.
- 21 Q. Do you know Rebecca Nellie?
- 22 A. I've spoken with her once or twice. I don't know
23 her well.
- 24 Q. Who is she?
- 25 A. She was the person who was hiring for the

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- 1 position Allison took.
- 2 Q. There's an entry here for date initiated,
3 April 9, 2003. What does that signify to you?
- 4 A. To me, that signifies this requisition was opened
5 in the system or entered into the system on that
6 day.
- 7 Q. Okay. Did there come a time when Allison Hart
8 spoke to you about wanting to look for another
9 position in the bank outside of the customer
10 satisfaction unit?
- 11 A. Yes.
- 12 Q. When was that?
- 13 A. I don't remember.
- 14 Q. Do you remember anything of what she said and
15 what you said on that subject?
- 16 A. Career development is a topic that we discussed
17 on a regular basis with associates. So I knew
18 that her ambition was to do more and different
19 work than she had been doing. And I recall that
20 essentially her feeling was that she had pretty
21 much learned what she could learn from managing
22 the program that she was managing, the survey,
23 and the other work that she was doing, and she
24 was ready to learn something different.
- 25 Q. And when Allison was being considered for this

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- 1 new position in the bank, were you contacted as a
2 reference for her?
- 3 A. I don't remember.
- 4 Q. Okay. Do you recall approximately when was the
5 first time that Allison talked to you about
6 wanting to go to a different part of the bank?
- 7 A. I don't remember, no.
- 8 Q. Do you recall whether it was before or after your
9 beginning to look yourself?
- 10 A. When she expressed interest in doing something
11 else or when she began looking for a particular
12 next position? They're very different.
- 13 Q. Let's break it down. Did she express interest
14 before you started looking?
- 15 A. Yes.
- 16 Q. Did she start looking before you started looking?
- 17 A. I don't know.
- 18 Q. Do you recall approximately how much before you
19 started looking she expressed interest?
- 20 A. I don't remember. Her interest was over a number
21 of months because, again, in normal career, you
22 know, development kinds of conversations, she
23 expressed interest that she would be happy to try
24 other things. So her interest initially
25 expressed in an interest sort of way, yes, I

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- 1 don't think I necessarily want to do market
2 research for my entire career, I would like to
3 learn different areas of the bank was expressed
4 at various intervals.
- 5 Q. In the first several months of 2003 what was the
6 market satisfaction unit working on?
- 7 A. The market satisfaction --
- 8 MS. SWEENEY: Objection.
- 9 THE WITNESS: -- unit? Can you clarify who
10 you mean?
- 11 BY MR. FINE:
- 12 Q. What was the unit that you were the head of?
- 13 A. The customer satisfaction research group.
- 14 Q. Thank you. What was the customer satisfaction
15 research group working on in the first several
16 months of 2003?
- 17 A. All of it? We --
- 18 Q. Can you give an overview of what you were working
19 on?
- 20 A. Sure. We, as a team, managed the customer
21 satisfaction and loyalty barometer survey. As a
22 team, we managed the banking center satisfaction
23 survey. We facilitated the customer delight
24 community of practice. We would have been
25 working on sympathizing results of the various

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- 1 customer satisfaction surveys. We would have
2 been working on, I think, banking center
3 incentive design. We would have been working, I
4 think, on the loyalty measurement development.
5 We were working on a project to identify how best
6 to help people from a financial perspective when
7 they're moving. And I'm sure there were other
8 projects, I just don't recall specifically for
9 all those months.
- 10 Q. Okay.
- 11 A. We were working on the valuation of work, the
12 customer satisfaction valuation work.
- 13 Q. Of these various things that your unit was
14 working on, did you consider any of them to be of
15 primary importance or of greater importance than
16 the other things?
- 17 A. No.
- 18 Q. Okay. I take it that as the head of this unit
19 you felt responsibility for how the unit as a
20 whole was performing with regard to the various
21 things that it was doing, is that fair?
- 22 A. Yes.
- 23 Q. Okay. Were any of the projects that your unit
24 had been working on coming to completion in the
25 first months of 2003?

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- 1 A. The nature of a lot of our work is ongoing, so
2 for those pieces, no. And, no, I don't believe
3 anything was coming to completion.
- 4 Q. Okay. Did you have any qualms in deciding to
5 move to another part of the bank that you were
6 leaving unfinished work that you had been
7 supervising?
- 8 A. No.
- 9 Q. Why not?
- 10 A. If you waited to finish all the work you were
11 doing before you left a job, you would never
12 leave a job or grow or develop. So it is normal
13 practice and normal for me that when you're ready
14 to move on to the growth opportunity you do
15 knowing that there are other people who will take
16 on what you've been doing.
- 17 Q. What is the work that your unit completed that
18 you were most proud of?
- 19 A. We developed the barometer.
- 20 Q. And by barometer you mean what?
- 21 A. The customer satisfaction and loyalty barometer
22 survey. I'm also most proud of the development
23 of community of practice that I facilitated.
- 24 Q. Now the first one that you mentioned, the
25 customer satisfaction barometer, was that?

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- 1 A. Yes.
- 2 Q. When was that work completed?
- 3 A. Creating it was completed in 2000, I think. But
4 it is an ongoing survey, we're continually asking
5 customers questions and continually analyzing the
6 results.
- 7 Q. Was there any piece of that work that was
8 completed after 2000?
- 9 A. Can you clarify what you mean by "that work"?
- 10 Q. The work in connection with the customer
11 satisfaction barometer and survey.
- 12 A. Yes. Given that it was ongoing, the gathering of
13 interviews and analyzing of information is
14 ongoing.
- 15 Q. Okay.
- 16 A. It's hard when you use the word "completed,"
17 because the work to create it and develop it was
18 completed in 2000 and 2001. After that it's an
19 ongoing process that you gather more information
20 and analyze more information. That, I guess you
21 could say is completed every quarter.
- 22 Q. At the end of a quarter did your unit produce a
23 report on what you had processed during that
24 quarter?
- 25 A. Yes.

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- 1 Q. Okay. And so you would have completed a
2 report -- well, how much after the end of a
3 quarter would such a report be prepared?
- 4 A. It varied. But typically sometime in the month
5 following the end of a quarter.
- 6 Q. So you would have completed a report in April
7 with regard to the first quarter of 2003?
- 8 A. Yes.
- 9 Q. But as to the second quarter of 2003, that
10 quarter would not have ended until June 30th and
11 you left your unit before that report was done;
12 right?
- 13 A. I don't remember. I probably did.
- 14 Q. All right. Maybe I should go back and ask you
15 with regard to the first document that we were
16 looking at where it says that you accepted this
17 position June 23, 2003 --
- 18 A. Uh-huh.
- 19 Q. -- does that mean you actually left the customer
20 satisfaction unit at that time?
- 21 A. No.
- 22 Q. When did you actually leave the unit?
- 23 A. My official start date in my new job I believe
24 was July 15th.
- 25 Q. Okay. And was that date chosen in connection --

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